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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-third session
Agenda item 10

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Written statement submitted by Human Rights Advocates
a non-governmental organization in consultative status
(category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[21 August 1991]

WHICH PROVISIONS OF "VARIOUS UNITED NATIONS STANDARDS RELATING TO HUMAN RIGHTS IN THE ADMINISTRATION OF JUSTICE" SHOULD BE KEPT IN MIND BY THE DRAFTERS OF MODEL TEXTS FOR NATIONAL LEGISLATION? (E/CN.4/Sub.2/1991/26)

1. This Sub-Commission is concerned primarily with the prevention of discrimination and the protection of minorities. Therefore, in a list of "standards relating to human rights in the administration of justice", should not the clauses of the International Bill of Human Rights that concern non-discrimination be included among those that are quoted in sections A and B of document E/CN.4/Sub.2/1991/26? (See, e.g. articles 2 and 7 of the Universal Declaration; articles 2 (1), 4 (1) and 26 of the International Covenant on Civil and Political Rights and article 2 (2) of the International Covenant on Economic, Social and Cultural Rights.)

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2. The omission from the Secretary-General's list of still other norms in the International Bill of Human Rights also is puzzling. For instance, are human rights in the administration of justice adequately protected when no remedies are available or when existing remedies are ineffective? (See article 8 of the Universal Declaration and article 2 (3) of the International Covenant on Civil and Political Rights.)

3. Further, is not an individual denied justice if she or he is not recognized "as a person before the law" as required by article 6 of the Universal Declaration and article 16 of the International Covenant on Civil and Political Rights? And clearly, among other clauses that ought to be considered by drafters of national legislation are articles 14 (2) and 15 (2) of the Universal Declaration and articles 4 (2) and 8 (3) of the International Covenant on Civil and Political Rights (cf. articles 10 (2) (b) and 13 of the Covenant).